

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
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CLERK, U.S. DISTRICT COURT
By _____ Deputy

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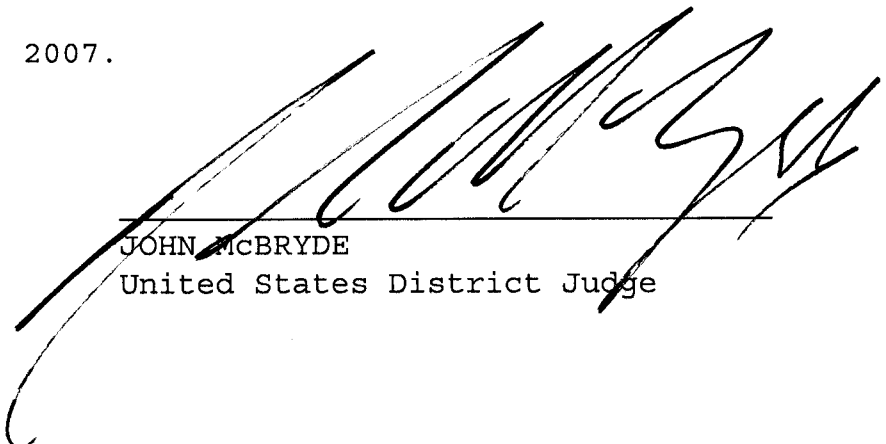
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Came on for consideration the above-captioned action wherein David Whatley Bell is petitioner and Nathaniel Quarterman, Director, T.D.C.J., Correctional Institutions Division, is respondent. This is a petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. On July 13, 2007, the United States Magistrate Judge issued his proposed findings, conclusions, and recommendation that the petition be dismissed pursuant to 28 U.S.C. § 2244(b)(1) as a successive petition filed without authorization from the Fifth Circuit. The magistrate judge ordered that the parties file objections, if any, to his proposed findings, conclusions, and recommendation by August 3, 2007. At petitioner's request, the court extended the deadline

to August 28, 2007. On August 23, 2007, petitioner merely filed an application for leave to file a second or successive habeas. Such a motion is properly filed with the Fifth Circuit and not this court. See 28 U.S.C. § 2244(b)(3)(A). Therefore,

The court accepts the findings, conclusions and recommendation of the magistrate judge and ORDERS that the petition in this action be, and is hereby, dismissed pursuant to 28 U.S.C. § 2244(b)(1) as a successive petition filed without authorization from the Fifth Circuit.

SIGNED September 6, 2007.



JOHN MCBRYDE
United States District Judge